

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**

**v.**

**DEMETRIOUS LEVY**

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**2: 12-cr-00113**

**MEMORANDUM OPINION**

April 26, 2016

Now pending before the Court is a MOTION FOR REDUCTION OF SENTENCE (ECF No. 589) filed pro se by Defendant Demetrious Levy. The government filed a response in opposition to the motion (ECF No. 592) and it is now ripe for disposition.

Levy contends that his sentence should be reduced as a result of the retroactive amendment to the United States Sentencing Guidelines (Amendment 782) which reduced the offense levels in the drug quantity tables. The Court commends Levy for his clean conduct record while incarcerated, his active rehabilitation efforts, and his care and concern for his family. Unfortunately, Levy does not qualify for a reduction in his sentence for two complementary reasons. First, he has already received the benefit of Amendment 782 in his original sentence. Second, his ultimate sentence was not based on the sentencing guidelines because he and the government stipulated to the appropriate sentence in his plea agreement pursuant to Fed. R. Crim. P. 11(c)(1)(C).

Amendment 782 took effect on November 1, 2014. Levy pled guilty on October 10, 2014 but was not sentenced until February 12, 2015 – after Amendment 782 had already taken effect. The Presentence Investigation Report prepared by the Probation Office expressly confirmed that Levy’s sentencing guideline range had been calculated based on the newly-

reduced levels set forth in Amendment 782. In summary, Levy has already received the benefit of Amendment 782 and the reduction in the advisory guideline range for his sentence.

In addition, Levy was sentenced “based on” a stipulated agreement with the government pursuant to Fed. R. Crim. P. 11(c)(1)(C). The length of Levy’s sentence was not expressly or indirectly linked to a drug quantity sentencing guidelines range that was retroactively amended. *See United States v. Weatherspoon*, 696 F.3d 416, 422-24 (3d Cir. 2012). Instead, Levy and the government agreed that a term of imprisonment of 156 months was appropriate, and the Court accepted that stipulation.

In summary, as the government correctly points out, Levy was not sentenced to a term of imprisonment “based on a sentencing range that has subsequently been lowered.” In accordance with the foregoing, the MOTION FOR REDUCTION OF SENTENCE (ECF No. 589) is hereby **DENIED**.

An appropriate Order follows.

BY THE COURT;

s/ Terrence F. McVerry  
United States District Judge

cc:

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